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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,326	02/01/2005	Matthias Marke	112740-1047	5780
29177	7590	06/21/2010		
K&L Gates LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER COLUCCI, MICHAEL C	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,326

Applicant(s)

MARKE ET AL.

Examiner

MICHAEL C. COLUCCI

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/09/2010 has been entered.

Response to Arguments

2. Applicant's arguments, see Remarks, filed 02/09/2010, with respect to the rejection(s) of claim(s) 14-25 under 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Fukunaga US 6530055 B1 (hereinafter Fukunaga). Thyssen is therefore withdrawn. Although Thyssen teaches the comparison of energy levels with respect to frame position as consistent with the specification of the present invention, Fukunaga explicitly teaches error concealment and error reconcealment if an initial error concealment was detected and erroneously concealed. Fukunaga teaches this concept with respect to multimedia, and specifically Fukunaga can be applied to audio frames. Please see rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-16 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makinen et al US 6968309 B1 (herein after Makinen) in view of Chu et al US 6721707 B1 (herein after Chu) and further in view of Fukunaga US 6530055 B1 (hereinafter Fukunaga).

Re claims 14-16 and 25, Makinen teaches a method for evaluating data containing useful information (Col. 13 line 34-46) received via a communication network (Col. 6 line 24-41)

determining if the error concealment was performed (Col. 11 lines 30-47 & Fig. 4) by evaluating and at least partially correcting (Col. 2 line 11-21), via a channel decoder (Makinen Col. 1- line 1-27), the data received

forwarding, via the channel decoder (Fig. 1), to a speech decoder (Col. 12 line 60-67) the data with characteristics of supplementary information (Fig. 4 '162') representing the data

(Supplementary information is construed as additional information gained from the signal such as whether or not errors/corruption are present within a frame of data from the speech)

decoding the data via the speech decoder (Col. 12 line 60-67) and, where necessary, performing error concealment (Col. 2 line 22-40 & fig. 2)

forwarding the data to a text (Col. 8 line 20-30) telephony receiver (Col. 12 line 1-11 & fig. 6 '330') via the speech decoder

generating, via the demodulator (Col. 12 line 1-11 & fig. 6 '330'), reliability information (fig. 4 & Col. 10 line 28-44) relating to the data received

(Reliability information is construed as the likelihood, probability, or even prediction that data will be properly decoded with no corruption/errors. Reliable information from a frame of speech is that long term predictions even when corrupted, have a high probability of being correctly predicted)

via a demodulator (Col. 12 line 1-11 & fig. 6 '330') in the text telephony receiver (Col. 12 line 1-11 & fig. 6 '330').

forwarding the data, via the demodulator (Col. 12 line 1-11 & fig. 6 '330'), with the reliability information (Fig. 4 & Col. 10 line 28-44) to an error correction (Col. 2 line 11-21) modulator (Col. 11 line 48-67)

correcting the data received, via the error correction (Col. 2 line 11-21) modulator (Col. 11 line 48-67), taking into account the reliability information (fig. 4 & Col. 10 line 28-44)

However, Makinen fails to teach evaluating the data received and analyzing the data statistically (Chu Col. 6 lines 54-67),

Chu teaches a signal processed during data communication that includes a statistical analysis unit for generating data and the frequency of errors. Chu also teaches that the statistical analysis includes bit error rate and energy level transmission between states. Chu teaches a link impairment monitor unit 300 observes the audio data signal on the return link of the data communication channel 231 for the presence of data transmission errors that are indicative of the presence of a link impairment. In particular, assuming that the two signal processors 200 and 205 are in the bypass mode and exchange compressed audio data information, the link impairment monitor unit 300 will observe each frame of compressed audio data information and control information for possible corruption of the data that is protected by parity or by any other suitable error detection scheme. When errors are detected, a statistical analysis is performed and the results of this analysis are stored in a data structure 302.

Further, Chu teaches energy level during negotiation (assuming bypass negotiation takes advantage/uses the energy profile). (19) The control unit 220 also comprises link error response unit 304 that is operative to react to the detection of a transmission error by the link impairment monitor unit 300, in dependence on the history of statistics maintained by the link impairment monitor unit 300 in the data structure 302. The link error response unit 304 also includes a data structure 306 that contains data elements representative of the operating condition(s) to be met to allow the signal processor 200 to switch to the bypass mode. The following is a non-limiting list of

possible operating conditions: (20) Maximum number of bit errors during a certain time frame in the handshaking process; (21) A maximal time period allowed for completing a bypass handshaking procedure; (22) The minimal number of error-free control messages that must be exchanged during the handshaking procedure to consider the procedure successful; (23) Requiring a particular signal characteristic (such as energy level in the signal exchanged during the handshaking procedure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention error concealment involving evaluating and analyzing data statistically. Statistical analysis allows for an increased probability when computing a decision in a data stream, where error concealment may be difficult to detect. by using statistical means to detect error concealment, data can be processed faster and/or carefully by allocating a specific threshold of probability. Having statistically analysis increases the chances of transmission error detection on a frame by frame basis, where a probability can be in the form of energy (i.e. variance, standard deviation, etc).

However, Makinen in view of Chu fails to teach *determining if error concealment was performed*

Fukunaga teaches that in a sound transmission system, the coding units are, for example, audio frames representing a sound segment with a fixed duration. The position of an audio frame refers to its position on the time axis, rather than its spatial position. The fifth embodiment, which corrects the positions of coding units, is

applicable to coded sound data, with the term `position` indicating position on the time axis (Fukunaga Col. 22 lines 32-38).

Further, referring to Fig. 5, Fukunaga teaches an initial error concealment operation S14, wherein S15 checks for errors after concealment, if an error is confirmed as S18, error concealment is applied once again at S19. Therefore, units S15 and S18 check to see if error concealment was performed (i.e. whether it was performed correctly on a frame). In step S13 if data is not lost the initial error concealment may not be performed where units S15 and S18 check to see if error concealment was performed based on if an error is still present. If an error is still present, error concealment was not performed, since even if the operation or error concealment was initiated, it may have failed at step S15 or S18 (Fukunaga Fig. 5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Makinen in view of Chu to incorporate determining if error concealment was performed as taught by Fukunaga to allow for a reconcealment method to check on how dependable an initial error concealment is and whether error concealment was in fact performed correctly (Fukunaga Fig. 5), wherein error concealment is performed on audio frames (Fukunaga Col. 22 lines 32-38).

Re claim 18, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the data is analyzed in a mobile station (Col. 5 line 51-67).

Re claim 19, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the data is transmitted over a cellular (Fig. 6 '330') mobile communication network (Col. 12 line 12-43).

Re claim 20, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein for statistical (Chu Col. 11 line 24-35) detection of an error concealment (Col. 2 line 22-40 & fig. 2) by the speech decoder (Col. 12 line 60-67), time segments of frames (Col. 1 line 25-37) of the received useful information are analyzed.

Re claim 21, Makinen teaches a method for evaluating data containing useful information as claimed in claim 20, wherein the time segments (Col. 1 line 25-37) are analyzed in a text telephony demodulator (Col. 11 line 48-67).

Re claim 22, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the error correction (Col. 2 line 11-21) modulator is located in (fig. 6 '340') the text (Col. 8 line 20-30) telephony receiver (Col. 12 line 1-11 & fig. 6 '330').

Re claim 23, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the data is encoded with Adaptive Multi Rate (Col. 2 line 22-40).

Re claim 24, Makinen teaches a method for evaluating data containing useful information as claimed in claim 14, wherein the useful information includes at least one of text, speech (Col. 8 line 20-30), picture and video signals.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makinen et al US 6968309 B1 (herein after Makinen) in view of Chu et al US 6721707 B1 (herein after Chu) and Fukunaga US 6530055 B1 (hereinafter Fukunaga) further in view of Johnson US 6366578 B1 (herein after Johnson).

Re claim 17, Makinen in view of Chu and Fukunaga fail to teach a method for evaluating data containing useful information as claimed in claim 14, wherein the data is emergency call-related data (Johnson Col. 56 line 1-12).

Johnson teaches a multiple mode voice and data communication system with language capabilities, where backup communications using channels implement a telephone coupled for emergency voice calls or the like.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention data containing emergency call related data. Having an error concealment scheme for emergency related calls allows for an optimized system, that

can has the ability to process data faster to reduce a discrepancy during the communication of an emergency or any time essential situation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Colucci whose telephone number is (571)-270-1847. The examiner can normally be reached on 9:30 am - 6:00 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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